

February 26, 2008

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUITElisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MARK E. MILLER,

Defendant-Appellant.

No. 07-3083

Dist. Ct. No. 04-CR-10133-MLB

ORDER

Before **HARTZ, EBEL** and **O'BRIEN**, Circuit Judges.

This matter is before the court upon receipt of the parties' *Unopposed Motion For Summary Remand and Brief*. Upon consideration, the motion is granted. This matter is remanded with instructions to the district court to vacate the current sentence and to re-sentence Mr. Miller pursuant to *Kimbrough v. United States*, 127 S.Ct. 2933, 2007 WL 1660977 (2007) and *Gall v. United States*, 127 S.Ct. 2933, 2007 WL 1660978 (2007). The oral argument scheduled for March 21, 2008 is vacated and counsel are excused from attendance. As this directive constitutes a full remand, the mandate shall issue forthwith.

Entered for the Court,



ELISABETH A. SHUMAKER, Clerk